

IN RE: PETITION FOR ZONING VARIANCE
W/S Rolling Road, Opposite
Gilston Park Drive
(1208 N. Rolling Road)
1st Election District
1st Councilmanic District
Charles H. Payne, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-229-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the owners of the subject property, Charles H. and Beatrice G. Payne. The Petitioners request relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 7 feet in lieu of the minimum required 10 feet for an existing dwelling on Proposed Lot 1, as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Charles and Beatrice Payne, property owners, James Pinn, Jr., Thomasine Scott, and Roy Snyder, Registered Property Line Surveyor who prepared the plat to accompany the Petition for Zoning Variance. There were no Protestants at the hearing.

At the onset of the hearing, the Petitioners amended their request to ask for a variance of 3 feet in lieu of the minimum required 10 feet. Testimony indicated that the Bureau of Public Services has required that the panhandle driveways to proposed lots 2 and 3 be 12 feet wide instead of 10 feet. In order to comply with Public Services' request, a variance of 3 feet in lieu of the originally requested 7 feet is necessary. The Petition was amended accordingly.

Testimony indicated that the subject property, known as 1208 North Rolling Road, consists of 1.36365 acres, more or less, zoned D.R.

3.5, and is improved with a single family dwelling which has been the Petitioner's residence for the past 25 years. The Petitioners are desirous of subdividing their property to create three lots with panhandle drive access from Rolling Road to proposed Lots 2 and 3. Proposed Lot 1 would consist of 0.61145 acres, more or less, and contain the existing dwelling, while Proposed Lots 2 and 3 would be unimproved. Roy Snyder testified that due to the required panhandle drive access for Proposed Lots 2 and 3, and the required 12-foot width for each panhandle drive, the requested variance is necessary for the existing dwelling on Proposed Lot 1. Testimony indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community. Further testimony indicated that the Petitioners' neighbors have no objections to their plans.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

- 2 -

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 25th day of February, 1993 that the Petition for Zoning Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 3 feet in lieu of the minimum required 10 feet for an existing dwelling on proposed Lot 1, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is

- 3 -

reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TWK:bjs

ORDER RECEIVED FOR FILING
Date 2/25/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/25/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/25/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/25/93
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

February 25, 1993

(410) 887-4386

Mr. & Mrs. Charles H. Payne
1208 North Rolling Road
Catonsville, Maryland 21228

RE: PETITION FOR ZONING VARIANCE
W/S Rolling Road, opposite Gilston Park Drive
(1208 North Rolling Road)
1st Election District - 1st Councilmanic District
Charles H. Payne, et ux - Petitioners
Case No. 93-229-A

Dear Mr. & Mrs. Payne:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TWK:bjs

cc: People's Counsel

File



Petition for Variance

245
93-229-A
to the Zoning Commissioner of Baltimore County
for the property located at #1208 North Rolling Road
which is presently zoned DR 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3 C1

To allow a side yard setback of 7 feet in lieu of the required 10 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

In order to divide the property, panhandle lots must be utilized.

Access to proposed lots 2 & 3 is by panhandles. The creation of these panhandles produces the substandard setback on lot 1.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

(Type or Print Name)

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)

Charles H. Payne

(Type or Print Name)

Signature

Beatrice G. Payne

(Type or Print Name)

Signature

1208 North Rolling Road 747-5147

Address

Catonsville, Maryland 21228

City State Zipcode

Home, Address and phone number of legal owner, Contract purchaser or representative to be contacted

Charles H. Payne

Name

1208 North Rolling Road 747-5147

Address

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

30 MIN.

On following date

Next Two Months

ALL OTHER

REVIEWED BY: [Signature] DATE: 2/25/93

ORDER RECEIVED FOR FILING
Date 2/25/93
By [Signature]

A. L. Snyder
Surveyor, Inc.
1911 Hanover Pike
Hampstead, Maryland 21074
(410) 239-7744 (410) 374-9695

Description to Accompany Zoning Petition

1208 North Rolling Road

December 28, 1992

Beginning for the same on the west side of Rolling Road opposite of Gilston Park Drive and running, thence

- 1.) N 71° 03' 25" W 435.27 feet,
- 2.) N 5° 33' 32" E 143.44 feet,
- 3.) S 70° 46' 23" E 426.98 feet,
- 4.) by a line curving to the left having a radius of 937.00 feet for a distance, measured along the arc, of 143.70 feet, subtended by a chord bearing S 2° 08' 29" W 143.55 feet to the place of beginning.

Containing 1.36365 Acres of land, more or less.

Being all that lot or parcel of land conveyed by Charles H. Payne to Charles H. Payne and Beatrice G. Payne, his wife by deed dated August 7, 1986 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 7231 folio 713 etc.

93-229-A

MEMBER Md. Soc. of Surveyors • W. Va. Assoc. of Land Surveyors • ACSM •

280

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 93-229-A
Towson, Maryland

District 1st Date of Posting 2/25/93
Posted for: Variances
Petitioner: Charles H. Payne & Beatrice G. Payne
Location of property: 1208 North Rolling Road, Catonsville, MD
Location of Sign: Being 1208 North Rolling Road, Catonsville, MD
Remarks:
Posted by: [Signature] Date of return: 2/25/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1/28 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/28 1993.

THE JEFFERSONIAN,

S. Zate Olson

Publisher

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

DATE: 1/15/93

FOR: VARIANCE

DAAD480029NICHM
24-200133AM02-09-93

VALIDATION OR SIGNATURE OF CARRIER

93-229-A

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: 1/15/93

Account: R-001-6150

Number: H9300245

PUBLIC HEARING FEES

QTY: 1 X

PRICE: \$50.00

010 -ZONING VARIANCE (IRL)

TOTAL: \$50.00

LAST NAME OF OWNER: PAYNE

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: 1/15/93

Account: R-001-6150

Number: H9300245

PUBLIC HEARING FEES

QTY: 1 X

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LAST NAME OF OWNER: PAYNE

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 2-2-92

Charles and Beatrice Payne
1208 N. Rolling Road
Catonsville, Maryland 21228

RE: CASE NUMBER: 93-229-A (Item 245)
W/S Rolling Road opposite Gilston Park Drive
1208 North Rolling Road
1st Election District - 1st Councilmanic
Petitioner(s): Charles H. Payne and Beatrice G. Payne
HEARING: WEDNESDAY, FEBRUARY 17, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$ 68.75 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

ARNOLD JABLON
DIRECTOR

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

JAN 22 1993

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-229-A (Item 245)
W/S Rolling Road opposite Gilston Park Drive
1208 North Rolling Road
1st Election District - 1st Councilmanic
Petitioner(s): Charles H. Payne and Beatrice G. Payne
HEARING: WEDNESDAY, FEBRUARY 17, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Variance to allow a side yard setback of 7 feet in lieu of the required 10 feet.

ARNOLD JABLON
DIRECTOR

cc: Charles and Beatrice Payne

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

February 9, 1993

(410) 887-3353

Mr. and Mrs. Charles H. Payne
1208 North Rolling Road
Catonsville, MD 21228

RE: Case No. 93-229-A, Item No. 245
Petitioner: Charles H. Payne, et ux
Petition for Variance

Dear Mr. and Mrs. Payne:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on January 11, 1993 and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

DPH/Developers Engineering Division (Public Services) 01/27/93
Development Review Committee Response Form
Authorized signature: [Signature] Date: 2/1/93

File Number	Waiver Number	Zoning Issue	Meeting Date
Francis M. and Phyllis K. Coppersmith	236	1-25-93	NC
John W. Armacost, Jr., Trustee	237		NC
Michael I. and Gail G. Brooks	238		NC
Steven E. Meconi	242		NC
Richard P. and Lenore E. Koors	243		NC
Charles H. and Beatrice G. Payne	245		NC
Carl T. and Edward V. Julio	246		NC
COUNT 9	251		NC
Stonegate at Patapsco (Azreal Property)		6-1-92	
ZON DED TE (Waiting for developer to submit plans first)			
COUNT 1			
FINAL TOTALS			
COUNT 20			
*** END OF REPORT ***			



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 245 (LEO)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

383-7555 Baltimore Metro - 585-6451 D.C. Metro - 1-800-495-5042 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-0717

DPZ/Strategic Planning (Design Review Section) 02/04/93
Development Review Committee Response Form
Authorized Signature: [Signature] Date: 2/1/93

File Number	Waiver Number	Zoning Issue	Meeting Date
Congregation Darchei Tzedek, Inc.	235	Comment	1-25-93
Charles H. and Beatrice G. Payne	245	NC	
COUNT 2			
Douglas E. and Mary A. Strickland	247	Comment	2-1-93
Donald R. and Margaret E. Grempler	248		
Catonsville Historical Society	249		
Albert J. and Barbara A. Swartz	250		
Rolling Wind Associates Limited Partnership	252	Comment	
Russell Moore	253		
COUNT 6			
FINAL TOTALS			
COUNT 8			
*** END OF REPORT ***			

DPW/Traffic Engineering
Development Review Committee
Authorized signature *Rakey Family* Date *2/1/93* 01/27/93

File Number	Waiver Number	Zoning Issue	Meeting Date
Francis M. and Phyllis K. Coppersmith	236	N/C	1-25-93
John W. Armacost, Jr., Trustee	237	N/C	
Michael L. and Gail G. Brooks	238	N/C	
Steven E. Meconi	242	N/C	
Richard P. and Lenore E. Noors	243	N/C	
Charles M. and Beatrice G. Payne	244	N/C	
Carl T. and Edward V. Julio	246	N/C	
	251	N/C	

COUNT 9
Stonegate at Patapsco (Aerial Property)
90476
ZON DED TE (Waiting for developer to submit plans first) 6-1-92
COUNT 1
FINAL TOTALS
COUNT 20
*** END OF REPORT ***

Baltimore County Government
The Department
301 East Joppa Road, Suite 900
Towson, MD 21286-5500
JANUARY 25, 1993

Arnold Jallon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: CHARLES L. PAYNE AND BEATRICE G. PAYNE
Location: 41208 NORTH ROLLING ROAD
Item No.: 245 (IFC) Meeting Agenda: JANUARY 25, 1993

Comments:
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

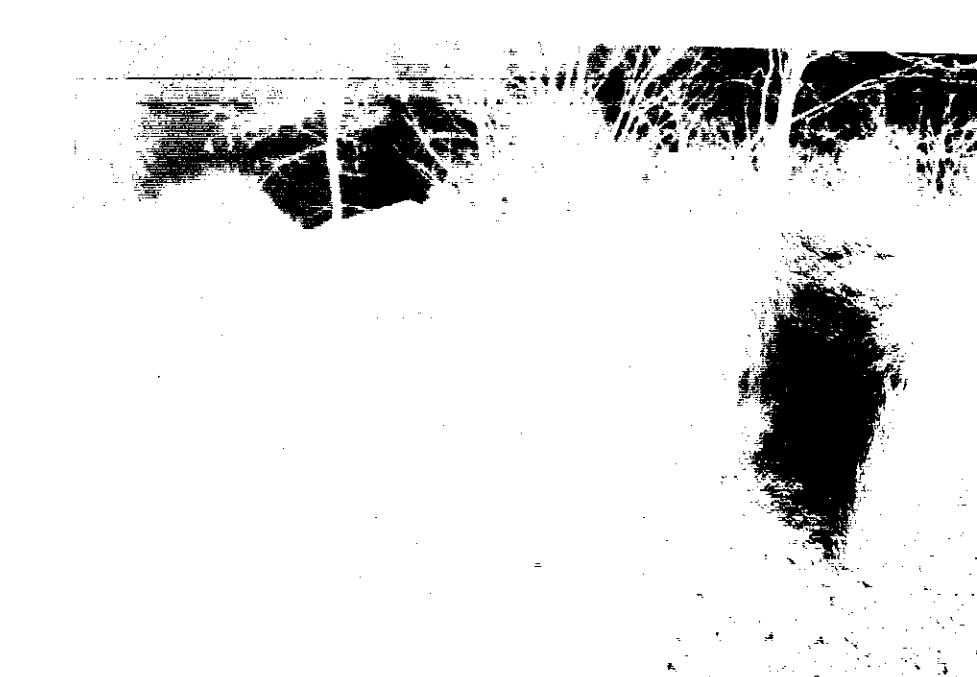
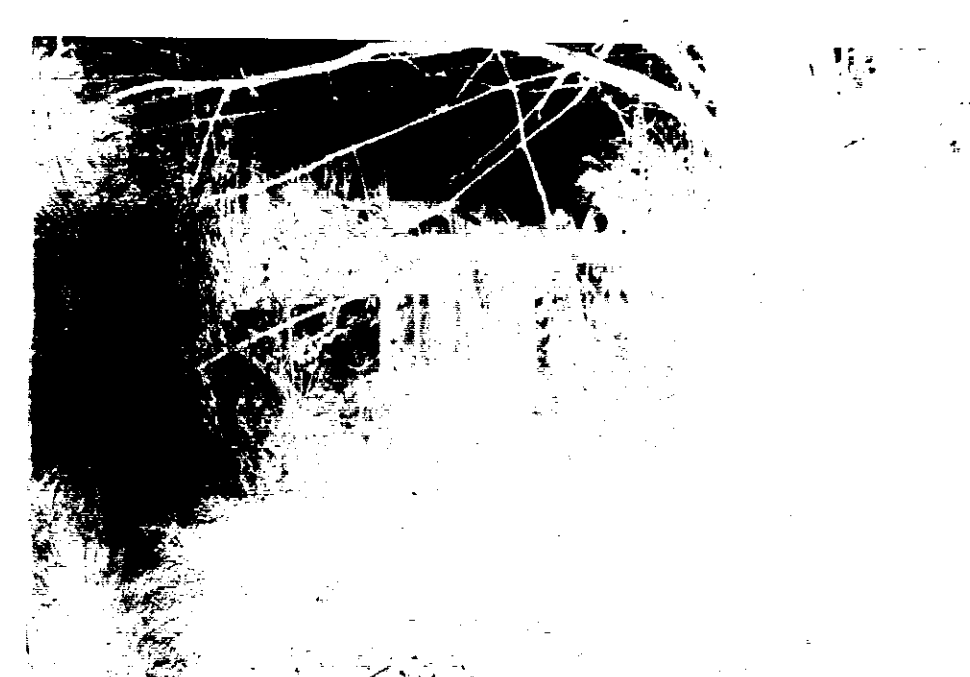
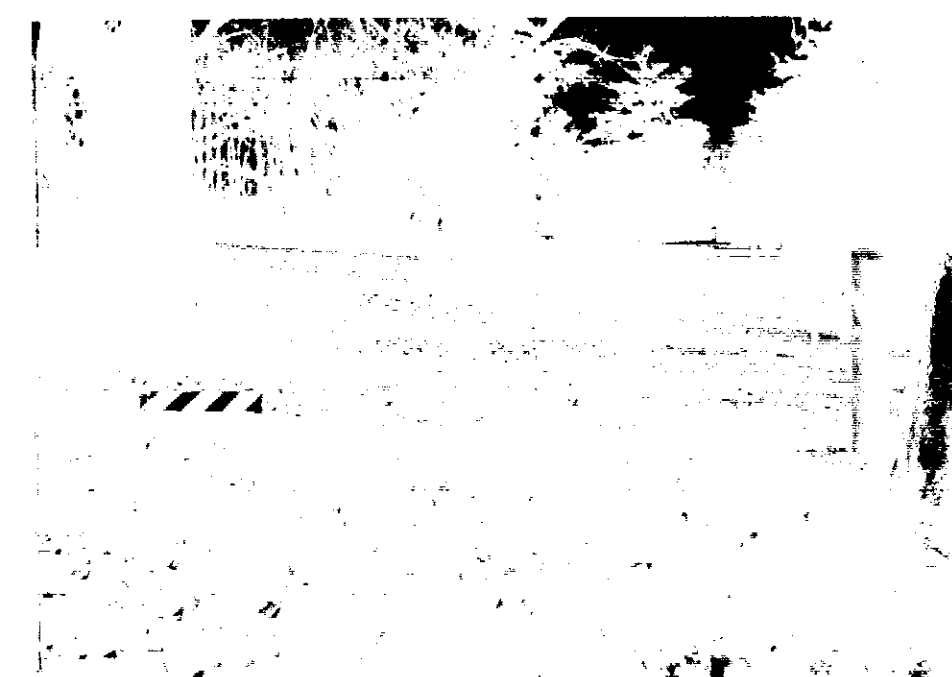
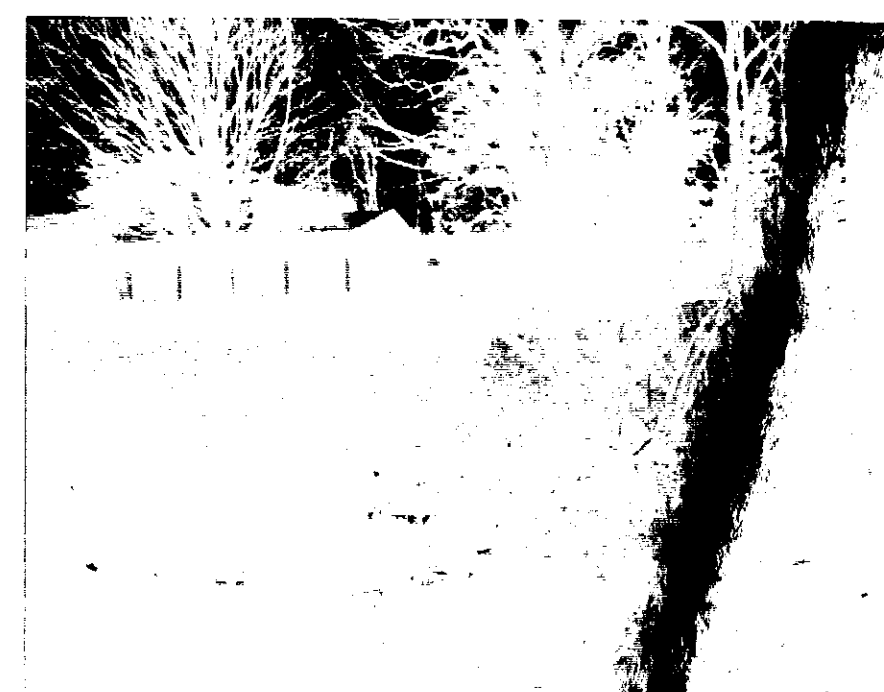
REVIEWER: *Carl J. Jallon*
Planning Group
Special Inspection Division

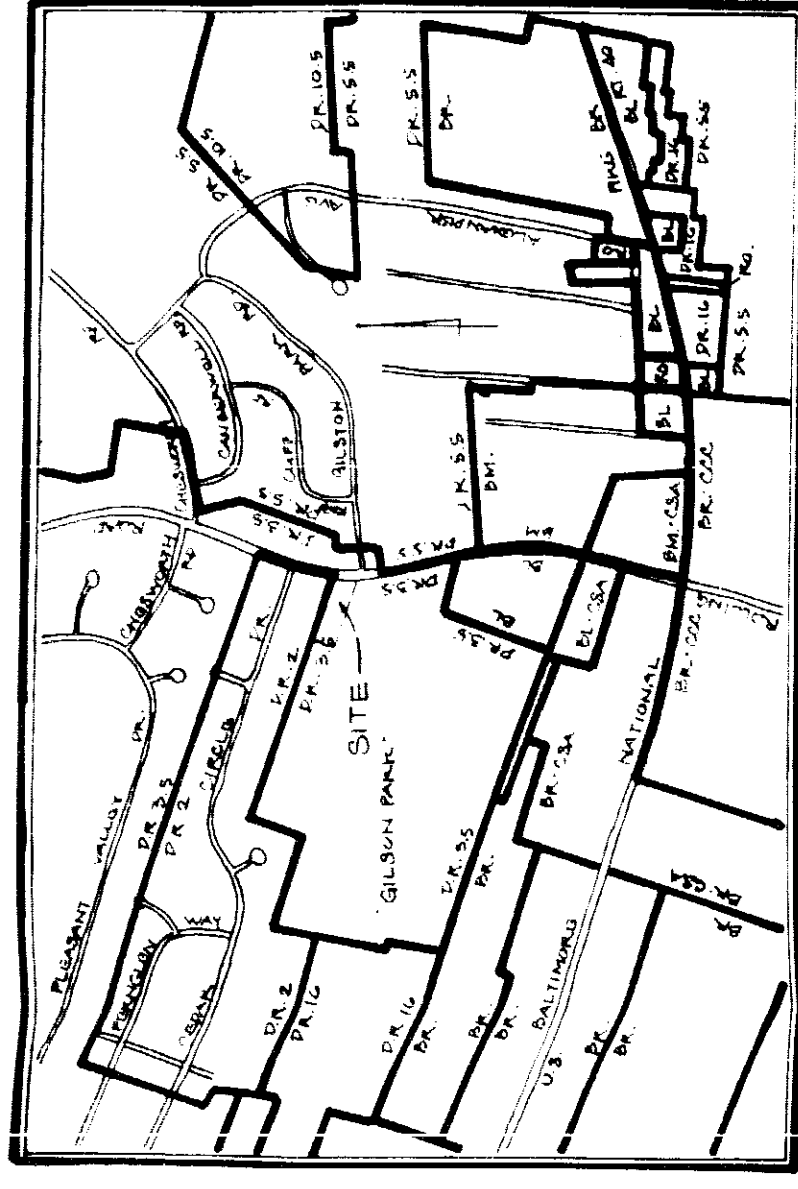
JE/KEK

PLEASE PRINT CLEARLY

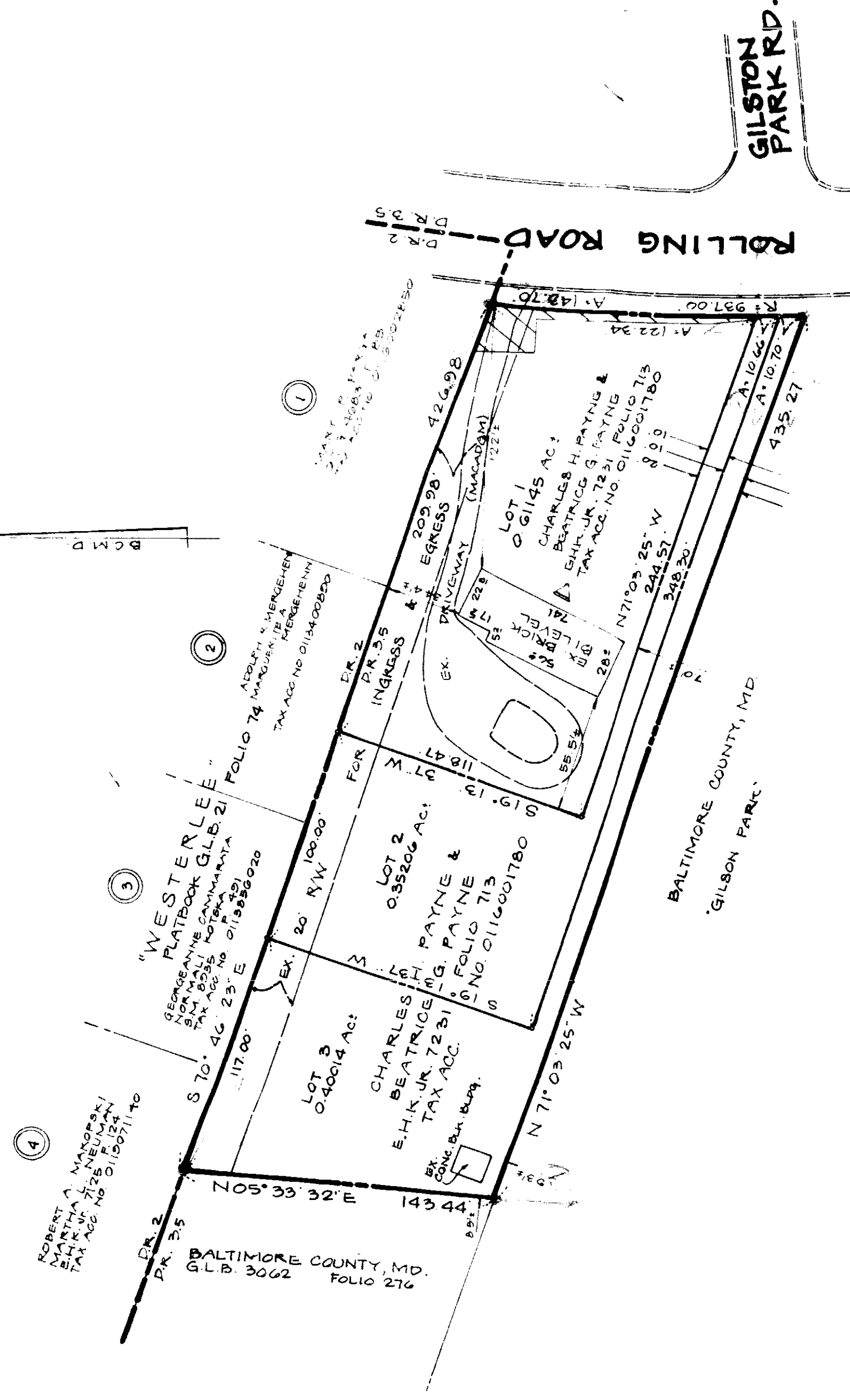
PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Charles L. Payne</i>	<i>41208 North Rolling Road</i>
<i>Beatrice G. Payne</i>	<i>41208 North Rolling Road</i>
<i>John W. Armacost, Jr.</i>	<i>11111 Rockledge Drive</i>
<i>Michael L. Brooks</i>	<i>5463 Mayfield Lane</i>
<i>Steven E. Meconi</i>	<i>11111 Rockledge Drive</i>
<i>Richard P. Noors</i>	<i>11111 Rockledge Drive</i>
<i>Charles M. Payne</i>	<i>11111 Rockledge Drive</i>
<i>Carl T. Julio</i>	<i>11111 Rockledge Drive</i>





VICINITY MAP
SCALE: 1" = 1000'

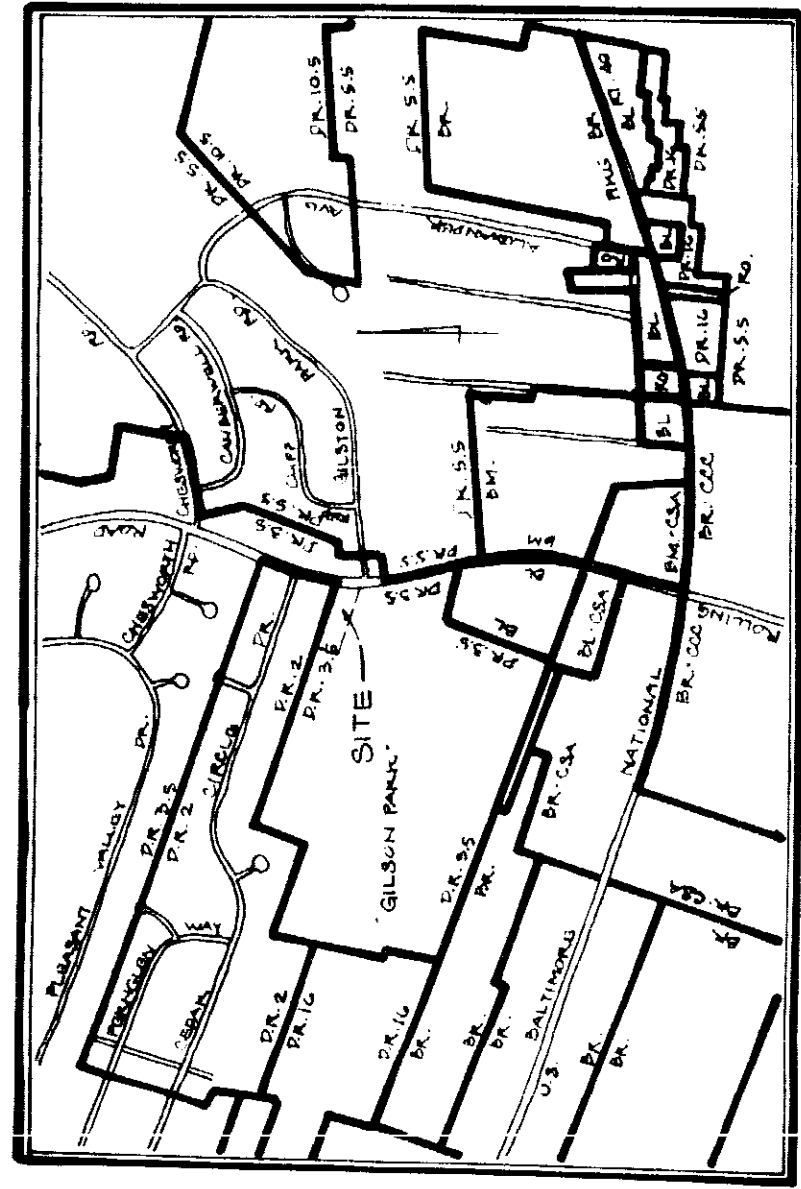
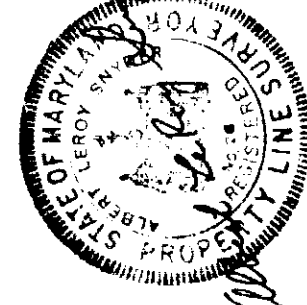


**PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE**

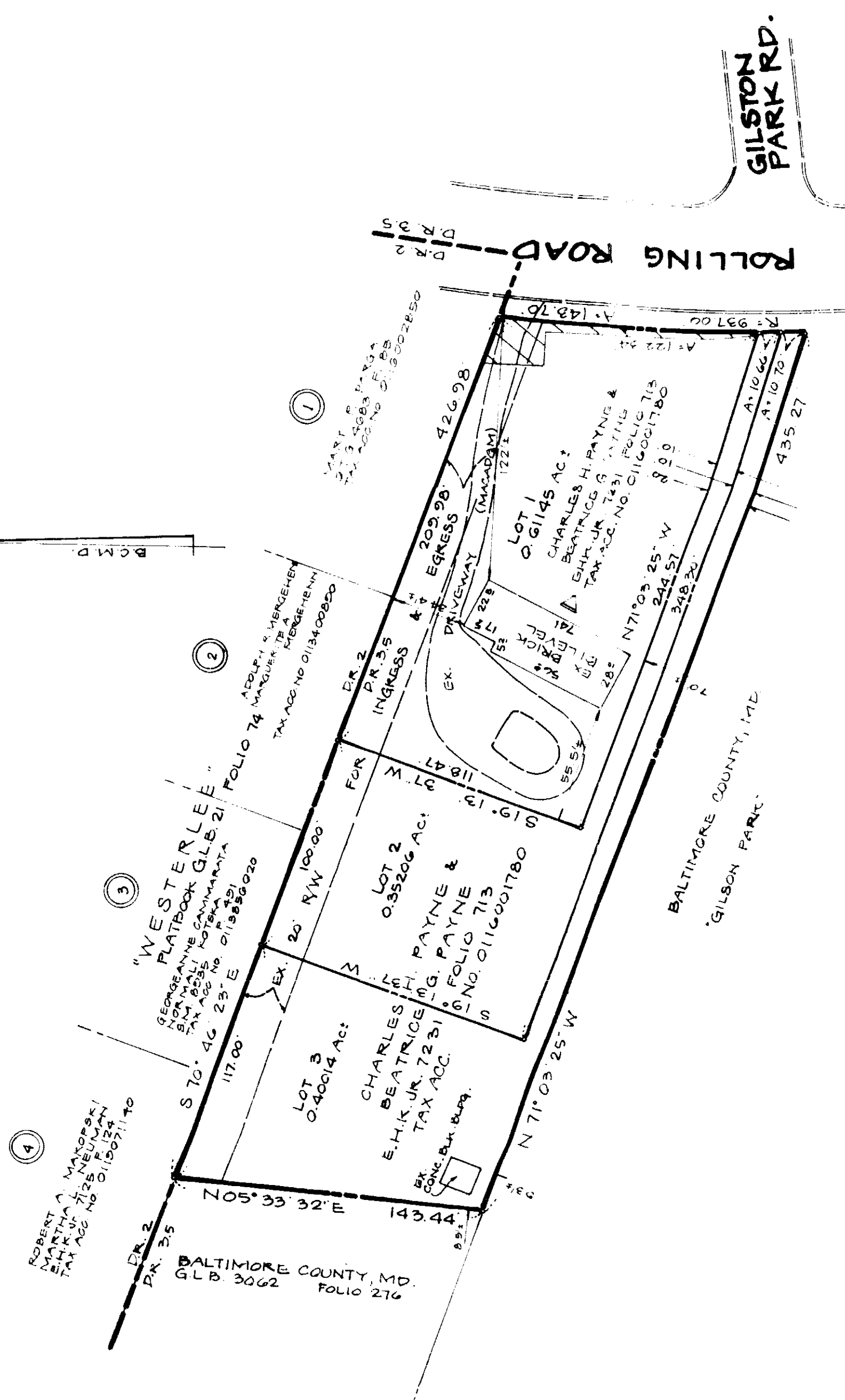
PROPERTY ADDRESS: 1226 N. ROLLING RD.
BALTIMORE, MD 21226
OWNER: CHARLES H. PAYNE
COUNCILMANIC DISTRICT: 1
1" = 200' SCALE MAP: SW 1/4
LOT SIZE: 1.00 AC.
DATE: DECEMBER 21, 1992

PREPARED BY:
AL SNYDER
SURVEYOR INC.
BALTIMORE, MD 21274
(410) 286-1555

ZONING OFFICE USE ONLY
REVIEWED BY:
ITEM NO.
DATE: 10/2/93



VICINITY MAP
SCALE: 1" = 1000'



**PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE**

PROPERTY ADDRESS: 1226 N. ROLLING RD.
BALTIMORE, MD 21226
OWNER: CHARLES H. PAYNE
COUNCILMANIC DISTRICT: 1
1" = 200' SCALE MAP: SW 1/4
LOT SIZE: 1.00 AC.
DATE: DECEMBER 21, 1992

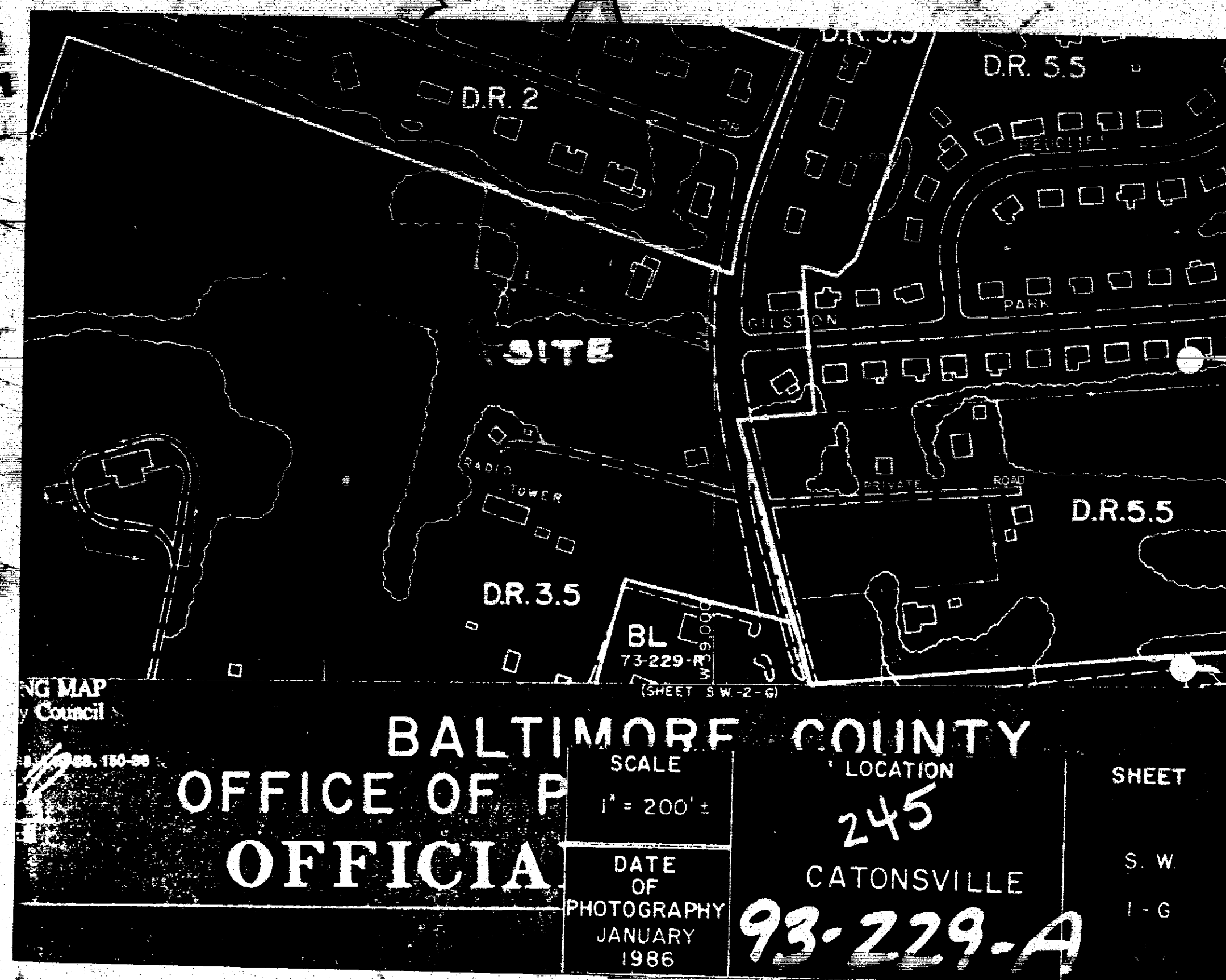
PREPARED BY:
AL SNYDER
SURVEYOR INC.
BALTIMORE, MD 21274
(410) 286-1555

ZONING OFFICE USE ONLY
REVIEWED BY:
ITEM NO.
DATE: 10/2/93



215 #1

93-229-A



**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP**

SCALE
1" = 200' ±

DATE OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
93-229-A
CATONSVILLE
245

SHEET
S. W
1-G